

ORIGINAL

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. REA-2005-9
DAVID J. NOONAN,)	
License No. CGA-60,)	STIPULATION AND
)	CONSENT ORDER
Respondent.)	
)	

REA\Noonan\P53461ga

WHEREAS, information having been received by the Idaho State Board of Real Estate Appraisers (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against David J. Noonan (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of real estate appraising in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

2. Respondent David J. Noonan is a licensee of the Idaho State Board of Real Estate Appraisers and holds License No. CGA-60 to practice real estate appraising in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code.

3. Appraisals in the State of Idaho must comply with the minimum standards set forth in the Uniform Standards of Professional Appraisal Practices ("USPAP").

4. On or about April 10, 2004, Respondent prepared an appraisal report for the property located at U.S. Highway 2 in Sandpoint, Idaho (the "Subject Property").

5. Respondent's appraisal report for the Subject Property fails to meet the following requirements of USPAP Standards (2004):

a. Respondent committed a series of errors that, although individually might not affect the results of the appraisal, aggregately affect the credibility of the appraisal report's results, in violation of Standards Rule 1-1(c).

b. Respondent failed to identify the real property interest to be valued, in violation of Standards Rules 1-2(e)(ii) and 2-2(b)(iv).

c. Respondent was provided copies of recorded quit claim deeds, easements, and maps in an "information book" when the appraisal was ordered on February 17, 2004, but the appraisal report states that "only easements, restrictions, etc. observed during the physical inspection and/or pointed out by the owner, etc. during my physical inspection of the subject property have been taken into consideration in this report." This is a violation of Standards Rule 1-2(e)(iv).

d. Respondent failed to include a highest and best use section, in violation of Standards Rules 1-3(b) and 2-2(b)(x).

e. Respondent failed to identify and discuss pending road improvements and their impact, if any, on the land being appraised, in violation of Standards Rules 1-4(f) and 2-1(b).

f. Respondent failed to sign the Standards Rule 2-3 certification, in violation of Standards Rules 2-2(b)(xii) and 2-3.

6. The above-stated allegations, if proven, constitute a violation of the laws and rules governing the practice of real estate appraising, specifically Idaho Code § 54-4107(1)(e) and IDAPA 24.18.01.700. Violations of these laws and rules constitute grounds for disciplinary action against Respondent's license to practice real estate appraising in the State of Idaho.

7. Respondent, in lieu of proceeding with a formal disciplinary action to

adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against his license as set forth in Section C below.

B.

I, David J. Noonan, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice real estate appraising in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraising in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this consent order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. Respondent agrees to accept a reprimand by the Board for failing to ensure that his appraisal report of the Subject Property complied with USPAP Standards.

2. Respondent shall pay to the Board an administrative fine in the amount of Five Hundred and No/100 Dollars (\$500.00) within thirty (30) days of the entry of the Board's Order.

3. Respondent shall pay investigative costs and attorney fees in the amount of Nine Hundred Fifty and No/100 Dollars (\$950.00) within sixty (60) days of the entry of

the Board's Order.

4. The violation of any of the terms of this Stipulation by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D.

1. It is hereby agreed between the parties that this Stipulation shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this Stipulation, and if rejected by the Board, a formal complaint may be filed against Respondent. Respondent hereby agrees to waive any right Respondent may have to challenge the impartiality of the Board to hear the disciplinary complaint if, after review by the Board, this Stipulation is rejected.

3. If the Stipulation is not accepted by the Board, it shall be regarded as null and void. Admissions by Respondent in the Stipulation will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. The Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-4107. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board. Within twenty-one (21) days after the notice of hearing and charges is served, Respondent may submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations will be deemed admitted.

b. At the hearing before the Board, the Board and Respondent may submit affidavits made on personal knowledge and argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

c. At the hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

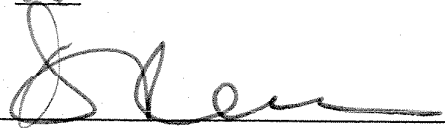
7. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject

to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

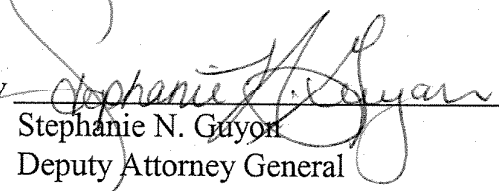
DATED this 10th day of Jan., 2006.


David J. Noonan
Respondent

I concur in this stipulation and order.

DATED this 12th day of Jan., 2006.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL

By 
Stephanie N. Gayon
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-4106, the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 13th day of February, 2006. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF REAL ESTATE APPRAISERS

By 
Henri LeMoyne, Chair

CERTIFICATE OF SERVICE


I HEREBY CERTIFY that on this 13th day of February 2006, I caused to be served a true and correct copy of the foregoing by the following method to:

David J. Noonan
120 E. Lake Street, Suite 319
Sandpoint, ID 83864

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Stephanie N. Guyon
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail



Rayola Jacobsen, Chief
Bureau of Occupational Licenses